

Article - Public Safety

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§13A–905.

(a) (1) Each rehearing under this title shall take place before a court–martial composed of members who are not members of the court–martial that first heard the case.

(2) On a rehearing, the accused may not be tried for any offense of which the accused was found not guilty by the first court–martial, and no sentence in excess of or more severe than the original sentence may be approved, unless the sentence is based on a finding of guilty of an offense not considered on the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory.

(3) If the sentence approved after the first court–martial was in accordance with a pretrial agreement and the accused at the rehearing changes a plea with respect to the charges or specifications on which the pretrial agreement was based, or otherwise does not comply with the pretrial agreement, the approved sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first court–martial.

(b) If, after appeal by the Government under § 13A–802 of this title, the sentence adjudged is set aside and a rehearing on sentence is ordered by the Court of Military Appeals or Court of Appeals of Maryland, the court–martial may impose any sentence that is in accordance with the order or ruling setting aside the adjudged sentence, subject to such limitations as The Adjutant General may prescribe by regulation.

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